



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/720,946

11/24/2003

Donna K. Hodges

BS 030352

5269

38516 7590 07/03/2008

SCOTT P. ZIMMERMAN, PLLC

PO BOX 3822

CARY, NC 27519

EXAMINER

NELSON, FREDA ANN

ART UNIT

PAPER NUMBER

3628

MAIL DATE

DELIVERY MODE

07/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/720,946	Applicant(s) HODGES ET AL.	
	Examiner FREDA A. NELSON	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The amendment received on March 31, 2008 is acknowledged and entered.

Claim 15 has been amended. No claims have been added. Claims 1-20 are currently pending.

Response to Amendments and Arguments

Applicant's arguments with respect to claim 1-20 have been considered but are moot in view of the new ground(s) of rejection.

The indicated allowability of claims 1-13 and 18-20 is withdrawn in view of the newly discovered reference(s) to Patel et al. (US Patent Number 7,043,225).

Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-14 are directed to a series of steps. In order for a series of steps to be considered a proper process under § 101, a claimed process must either:

(1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978);

Art Unit: 3628

Gottschalk v. Benson, 409 U.S. 63, 70 (1972). Thus, to qualify as patent eligible, these processes must positively recite the other statutory class to which it is tied (e.g., by identifying the apparatus that accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g., by identifying the product or material that is changed to a different state). Claims 1-14 identify neither the apparatus performing the recited steps nor any transformation of underlying materials, and accordingly are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 15-16, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Patel et al. (US Patent Number 7,043,225).

As per claims 1, 15, and 18, Patel et al. disclose a method of providing communications services, comprising:

receiving a request for communications service, the request for communications service originating from a client communications device and communicated to a service provider of a communications network (col. 1, lines 43-65);

Art Unit: 3628

communicating the request for communications service to other service providers (col. 1, lines 43-65);

receiving an availability message from at least one of the other service providers, the availability message describing what routing paths are immediately available and what bandwidth is immediately available along each routing path (col. 3, lines 8-21);

analyzing the availability message to dynamically ascertain a preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request for communications service (col. 5, lines 31-51; col. 6, lines 5-21; col. 7, line 64-col. 8, line 23); and

billing for the communications service (col. 6, lines 18-21; FIGS 6 and 7).

As per claim 2, Patel et al. disclose a method according to claim I, wherein analyzing each availability message comprises utilizing another communications network of another service provider (col. 5, lines 31-51; col. 6, lines 5-21; col. 7, line 64-col. 8, line 23).

As per claims 3, 16, and 19, Patel et al. disclose a method according to claim I, wherein analyzing each availability message comprises dynamically negotiating amongst the other service providers to fulfill the request for communications service (col. 7, line 64-col. 8, line 23).

Art Unit: 3628

As per claims 4 and 6, Patel et al. disclose a method according to claim 1, wherein analyzing each availability message comprises accessing a segmentation profile that comprises preferences for preferring one service provider to another service provider (col. 9, lines 63-66).

As per claims 5 and 7, Patel et al. disclose a method according to claim 1, wherein analyzing each availability message comprises accessing a segmentation profile that comprises preferences for preferring one communications network to another communications network (col. 9, lines 63-66).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel et al. (US Patent Number 7,043,225).

As per claim 11, Patel et al. disclose at step 202, payment for the provided services is received directly from the consumer or from a bandwidth provider 28 through which the services were sold (col. 12, lines 8-11).

Patel et al. does not expressly disclose a method according to claim 1, further comprising billing a credit card for the communications service, however,

Art Unit: 3628

it is old and well known to pay for products and services via a credit card, debit card, or pre-paid card for the convenience of not having to pay by cash or checks and for immediate processing of payments.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Patel et al. to include the feature of paying by credit card for immediate and direct payments for services.

As per claims 12-14, Patel et al. does not expressly disclose accessing a segmentation profile comprising preferences for billing for the communications service, preferences for presenting billing charges from another service provider of another communications network, and accessing a Service Level Agreement stored in memory, the Service Level Agreement defining preferences for billing for the communications service.

However, it is old and well known to provide users of communication services the flexibility of selecting billing preferences, such as, credit card/ debit cards/prepaid cards, per-usage billing, and/or monthly billing.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Patel et al. to include the feature of billing preferences to provide users the ability to select a convenient way of being billed.

Art Unit: 3628

4. Claims 8-10, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel et al. (US Patent Number 7,043,225), in view of Rai et al. (US Patent Number 6,377,982).

As per claims 9, 17, and 20, Patel et al. does not expressly disclose a method according to claim 8, further comprising presenting a single billing statement, the single billing statement aggregating billing charges from another service provider of another communications network.

However, Rai et al. disclose while accessing an internet service provider, the subscriber receives two bills--one from the wireless service provider for the use of the wireless network and the second from the internet service provider. Although common billing that combines both types of charges is not handled by the minimum embodiment software, it is contemplated that the software will take advantage of internet standards for billing settlement as they evolve so that subscribers may receive a common bill based on roaming agreements between the ISP and wireless service providers (col. 36, lines 41-57). Rai et al. further discloses the various accounting/billing systems communicate with one another automatically such that billing information is shared wherein the accounting and billing information exchange may be implemented using standards such as the standard proposed by the ROAMOPS working group of the IETF (col. 47, lines 8-17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Patel et al. to include

Art Unit: 3628

billing features of Rai et al. in order to provide the users various ways of being presented with billing of products or services.

As per claims 8 and 10, Patel et al does not expressly disclose a method according to claim 1, further comprising aggregating billing charges between multiple service providers of multiple communications networks; and presenting multiple billing statements from multiple service providers of multiple communications networks.

However, Rai et al. disclose while accessing an internet service provider, the subscriber receives two bills--one from the wireless service provider for the use of the wireless network and the second from the internet service provider. Although common billing that combines both types of charges is not handled by the minimum embodiment software, it is contemplated that the software will take advantage of internet standards for billing settlement as they evolve so that subscribers may receive a common bill based on roaming agreements between the ISP and wireless service providers (col. 36, lines 41-57). Rai et al. further discloses the various accounting/billing systems communicate with one another automatically such that billing information is shared wherein the accounting and billing information exchange may be implemented using standards such as the standard proposed by the ROAMOPS working group of the IETF (col. 47, lines 8-17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Patel et al. to include

Art Unit: 3628

billing features of Rai et al. in order to provide the users various ways of being presented with billing of products or services.

Examiner's Note

Examiner cited particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday, 9:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3628

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. A. N./
Examiner, Art Unit 3628
06/28/2008

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628